

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

LORILLARD TOBACCO COMPANY)
) No. C-05-3126-SC
-v-)
SMOKE AND GIFT SHOP, et al.) STATUS CONFERENCE ORDER SETTING
) TIMES FOR COMPLIANCE WITH CERTAIN
) RULES OF COURT
)
) FAILURE TO STRICTLY COMPLY WITH
) EACH PROVISION OF THIS ORDER WILL
) BE DEEMED SUFFICIENT GROUNDS TO
) IMPOSE SANCTIONS
)

IT IS HEREBY ORDERED THAT:

(1) This case is set for trial on 4/3/06, at 9:30 A.M., or as soon thereafter as the court may designate, all counsel having been advised that they must be prepared to go to trial on a trailing basis. This order shall also apply to all trial continuance dates.

(2) All discovery shall have been completed and all depositions taken by 2/3/06, (60) days before the date set for trial.

(3) The last hearing date for motions, to be noticed in accordance with Civil Local Rule 7-2, is 2/24/06, at 10:00 A.M. Counsel should contact the courtroom deputy for an available date prior to noticing any motions for hearing.

(4) All counsel shall meet prior to the pretrial conference to discuss the preparation of a joint pretrial statement and possible settlement of the action. Within one week thereafter, all counsel shall sign and file a written statement briefly summarizing the result of said conference, insofar as possible settlement is concerned.

(5) A pretrial conference shall be held before the court on 3/24/06, at 10:00 a.m. Pursuant to Civil Local Rule 16-10(b), a joint pretrial statement shall be filed not less than ten (10) days prior to said date. If there is any disagreement as to the wording of the statement, each party may state that party's position in the party's own words. Therefore, the court directs all parties or their counsel to sign the statement and anticipates that it will be confirmed as the pretrial order. (Civil Local Rule 16-10(d))

(6) Not less than ten calendar days prior to the date set for trial, the parties shall:

- (a) serve and file trial briefs;
- (b) submit a list of the witnesses, including expert witnesses, they intend to present and any Daubert challenges (if not presented they will be deemed waived), the order of presentation, and an estimate of testimony time (both direct and cross), and a brief statement as to the content of the witness' testimony. No witnesses other than those on said list shall be allowed to testify (except upon express order of the court), also

with reference to expert witnesses, FRCP Rule 26 will be adhered to and applied;

(c) serve and file statements designating excerpts from depositions (specifying the witness and page and line references), from interrogatory answers and from responses to requests for admission to be offered at the trial other than for impeachment or rebuttal;

(d) exchange copies of all exhibits to be offered and all schedules, summaries, diagrams and charts to be used at the trial other than for impeachment or rebuttal. Upon request, a party shall make the original or the underlying documents of any exhibit available for inspection and copying. Each proposed exhibit shall be pre-marked for identification in a manner clearly distinguishing plaintiff from defendant, and a list of exhibits shall be prepared by each party.

(7) (a) If a jury trial has been demanded, the parties shall not less than ten days before the date set for trial, lodge with the court, in duplicate, proposed voir dire questions, a complete set of proposed jury instructions and verdict form upon which they have agreed, including all standard instructions regarding the role of jurors, organization of the jury, communication with the court, etc. At the same time, each party shall lodge with the court, in duplicate, all proposed jury instructions upon which any other party does not agree, noting the corresponding instruction, if any,

being lodged by the other party. Each proposed instruction shall (I) be concise and free from argument; (ii) show the identity of the offering party; (iii) be typewritten in full on separate pages; (iv) be consecutively numbered; and (v) set forth specific citations to supporting authority.

(b) If a non-jury trial is requested, each party must submit proposed findings of fact and conclusions of law and form of judgment at least ten days before trial.

(8) Each party shall see to it that all depositions are brought to court on the trial date.

(9) No provisions of the order may be changed except by order of this court upon its own motion, or upon motion of one or more parties made pursuant to Civil Local Rule 7.

(10) Failure to strictly comply fully with each and all provisions of this order will be deemed sufficient grounds to impose sanctions, which may include dismissal of the action, dismissal of cross-complaint, dismissal of defenses, or refusal of testimony of witnesses not listed per 6(b) above.

Dated: 9/16/05



United States District Judge

INSTRUCTIONS FOR COMPLETING EXHIBIT MARKERS AND EXHIBIT LIST

EXHIBIT MARKERS

Counsel should fill in the appropriate markers leaving the "Date Entered" and "Deputy Clerk" lines blank.

Plaintiff's exhibits should be denoted as: P-1, P-2, P-3, etc. Defendant's exhibits should be denoted as: D-501, D-502, D-503, etc.

EXHIBIT LIST

Counsel are to supply all the requested information with the exception of the two "Date Boxes."

COLOR OF EXHIBIT BINDERS

Plaintiff's exhibit binders must be black and Defendant's exhibit binders must be blue.

<p>UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA Case No. _____</p> <p>PLAINTIFF Exhibit No. _____ Date Entered: _____ RICHARD W. WIEKING, CLERK By: _____ Deputy Clerk</p>	<p>UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA Case No. _____</p> <p>DEFENDANT Exhibit No. _____ Date Entered: _____ RICHARD W. WIEKING, CLERK By: _____ Deputy Clerk</p>
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CASE NO. _____

DATE _____

vs. _____

EXHIBIT LIST

() PLAINTIFF

() DEFENDANT